

Fort Belknap Indian Community



Fort Belknap Agency
656 Agency Main Street
Harlem, Montana 59526-9455
PH: (406) 353-2205
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(Tribal Govt.)
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(Elected to administer the affairs of the community and
to represent the Assiniboiné and the Gros Ventre
Tribes of the Fort Belknap Indian Reservation)

April 7, 2022

Terry Brockie, CEO
Island Mountain Development Group
353 Old Hays Road
Hays, MT 59527

RE: Island Mountain Board Members

Dear Mr. Brockie:

This is in response to your letter of February 3 to Jeffrey Stiffarm, President of the Council (the "Council") for the Fort Belknap Indian Community (the "Community").

In a letter to Terry Brockie, CEO of Island Mountain Development Group ("IMDG"), President Stiffarm had asked three simple questions. The first was the "terms of appointment for Board members Tracy "Ching" King and Christopher "Smiley" Guardipee. The second was the "expiration dates of all current Board members." (I will address the third question, separately, below.)

Your answer to both of these questions was a lengthy explanation of your reading of the resolutions and transactions which led to IMDG's appointment as the manager of Buffalo Horse, Inc. ("BHI"). You consider that all IMDG directors were appointed on "January 6, 2020, because of the Council's reappointment of all of us to the [BHI] Board of Directors (as a mirror of the IMDG Board)". According to your letter, the "BHI Restructure Plan" described in Council Resolutions 181-2019 and 212-2019 became effective on January 6, 2020, effectively reappointing all IMDG Board members for an initial term of four years. Thus, you concluded, "the clock didn't start on the [IMDG] Board's service until January 6, 2020."

Neither the resolutions nor the by-laws of IMDG and BHI support your reasoning. (In fact, the earlier resolution, No. 181-2019, only expressed the Council's intention to place BHI under the management of IMDG.)

There already was an IMDG Board in place on January 6, 2020. The BHI Board is to mirror the IMDG Board, not the other way around. There was no need to reappoint any IMDG Board members as a result of the BHI Restructure; instead, the existing IMDG

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Board members should have been named to the BHI Board, to serve the same terms on the BHI Board as they currently were serving on the IMDG Board. Resolution 212-2019 makes this clear in describing the Council's intent to remove the "existing Board of Directors of BHI" and "appoint the IMDG Board of Directors as the BHI Board of Directors." It did not require, or even mention, reappointment of any members of the IMDG Board. The pertinent resolutions in No. 212-2019 "authorize[d] and approve[d] the BHI Board Removal" and "authorize[d] and approve[d] the BHI Board Appointment." Nothing in this resolution, or No. 181-2019, or any other documentation pertaining to the BHI Restructure provides for reappointment of the IMDG Board.

The BHI By-Laws, as amended and restated in connection with the BHI Restructure, clearly illustrate the "mirror image" as described in No. 212-2019. Article IV, Section 1, provides in pertinent part as follows:

The membership of the Board will be those persons who are on the board of directors of the Fort Belknap Planning and Development Corporation d/b/a Island Mountain Development Group ("IMDG"). For purposes of clarity, in the event that a director is removed or resigns from the board of directors of IMDG, then such director shall also be automatically removed from the Board of the Corporation. Likewise, if a director is added to the board of directors of IMDG, then such director shall also be automatically added to the Board of the Corporation.

Similarly, BHI's Amended and Restated Articles of Organization provide that "[t]he number and identity of directors constituting the Board of Directors of the Corporation shall consist of the same number and persons who serve as directors of Fort Belknap Planning and Development Corporation d/b/a Island Mountain Development Group. Art. VI, Section 1.

Thus, the "clock started" on the BHI Board, not the IMDG Board, when the BHI Restructure took effect. The provision in the IMDG Bylaws that Board appointments "shall be construed as a four (4) year term" does not compel a contrary result. This provision simply means that Board members appointed initially for a term of fewer than four years would, if reappointed, serve the next and any subsequent terms for four years.

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We have located Council resolutions appointing IMDG Board members John Hawley, to serve for a term commencing July 18, 2018 and *ending March 5, 2022* (Resolution No. 141-2018), Kenneth Helgersen, to serve for a term commencing July 18, 2018 and *ending December 31, 2021* (Resolution No. 140-2018), Harold Main, to serve for a term commencing March 20, 2018 and *ending March 5, 2022*, (Resolution 98-2018) and Ramona Horn, to serve for a term commencing July 18, 2018 and *ending March 5, 2022* (Resolution No. 142-2018) (emphasis added). These are examples of initial terms that were fewer than four years. Thus, if either of these IMDG Board members were reappointed for a term beginning March 6, 2022, that term would last for four years under the language of the Bylaws quoted in your letter.

Difficulty in locating the parallel resolutions appointing the other four IMDG Board members, including Tracy "Ching" King and Christopher "Smiley" Guardipee, was part of the reason for President Stiffarm's letter to you.

If there are other documents that you believe would support your position on this issue, please send copies.

The third request in President Stiffarm's letter was for the "gross salaries of employees from the CEO, down through the least salaried employee." The request clearly excluded "employee names" from the request. Your response to this request is unacceptable.

You wrote that IMDG "has confidentiality obligations in its employment contracts that prohibit such by-position disclosure." This response is unacceptable. IMDG is wholly owned by the Community. The IMDG Board is accountable to the Community just as any Board is accountable to its shareholders. If you believe there is any legal authority for the Board to refuse to provide pertinent financial information requested by its sole owner, please provide it. Otherwise, please comply with President Stiffarm's request. The Council would be willing to discuss suitable terms for a non-disclosure agreement.

Your response reveals a significant difference of opinion between the Council, on the one hand, and the IMDG Board, on the other. The Council and Board must resolve these issues as soon as possible—particularly because the terms of the four Board members for whom we located the appointment resolutions already has ended and since no resolutions exist for the other two board members appointments, Christopher Guardipee and Tracy King.

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Finally, as to Board appointments. Council Resolution No. 173-2018 provides all Board member appointments for expired terms shall be done by the council in accordance with the amended bylaws as follows:

Section 1. Selection of eligible persons, as defined above, to fill expired vacancies on the Board will be done by the Council, as hereinafter provided.

Section 2. For each expired vacancy, the FBIC Council will accept all applications and forward them to the IMDG Board of Director where they will be reviewed and returned to the FBIC Council along with all applicant names and recommendations. The FBIC Council will then select person(s) for membership on the IMDG Board to fill the expired vacancy. The FBIC Council shall consider the nominations submitted by the IMDG Board of Directors, but may choose to select from all applications submitted for Board membership to fill the vacancy. In selecting said person, the Council shall designate when said person will begin their term of office.

Article VI. In accordance with the bylaws, Council will advertise and accept applications to the IMDG Board and forward them to you for review. After review Council will fill all vacancies.

Sincerely,

Jeffrey Stiffarm
Jeff Stiffarm,
President